

ORDINANCE NO.

AN ORDINANCE ORDERING AN ELECTION TO BE HELD IN THE CITY OF AUSTIN ON NOVEMBER 6, 2012, FOR THE PURPOSE OF SUBMITTING A PROPOSED CHARTER AMENDMENT TO THE VOTERS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Ordinance No. 20120628-084 is repealed.

PART 2. A charter amendment election shall be held in the City on November 6, 2012 at which the ballot shall be prepared to permit voting “yes” or “no” on the following proposition:

Proposition ---

Shall the city charter be amended to provide for the election of council members from 10 geographical single-member districts, with the mayor to be elected from the city at large, and to provide for an independent citizens redistricting commission?

PART 3. If Proposition --- is approved by the majority of voters voting at the election, the City Charter is amended by adding the following:

CHARTER AMENDMENT TO THE CITY OF AUSTIN FOR GEOGRAPHIC REPRESENTATION AND AN INDEPENDENT CITIZENS REDISTRICTING COMMISSION

1. COUNCIL MEMBERSHIP.

(A) The council shall be composed of:

- (1) a mayor elected from the city at-large; and
- (2) ten (10) council members elected from single-member districts.

(B) The term “council member(s)” includes the mayor unless otherwise provided.

(C) The independent citizens redistricting commission, as prescribed below in Article 3, shall be empowered to divide the city into ten (10) geographical council districts for the election of council members. The commission shall designate each council district by a number or by other designation.

1
2 2. ELIGIBILITY OF COUNCIL MEMBERS.
3

4 (A) A candidate for mayor must meet all eligibility requirements of state law and must
5 have resided continuously in the state for twelve (12) months and in the city for six (6)
6 months immediately preceding the regular filing deadline for a mayoral candidate's
7 application for a place on the ballot. If the mayor ceases to reside in the city, the mayor
8 automatically resigns.
9

10 (B) A candidate for city council from a council district must meet all eligibility
11 requirements of state law and must have resided continuously in the state for twelve (12)
12 months and in the council district from which the member is seeking election for six (6)
13 months immediately preceding the regular filing deadline for a council candidate's
14 application for a place on the ballot. If a council member elected from a council district
15 ceases to reside in the district as the boundaries of the district were drawn at the time of
16 the council member's election, the council member automatically resigns.
17

18 3. REDISTRICTING.
19

20 (A) For purposes of this section, the following terms are defined:
21

- 22 (1) "Commission" means the Independent Citizens Redistricting Commission.
23
24 (2) "Day" means a calendar day, except that if the final day of a period within
25 which an act is to be performed is a Saturday, Sunday, or holiday in which the City
26 of Austin's offices are closed, the period is extended to the next day that is not a
27 Saturday, Sunday, or holiday in which the City of Austin's offices are closed.
28
29 (3) "Panel" means the Applicant Review Panel of three (3) qualified, independent
30 auditors that screens applicants for the Commission.
31
32 (4) "Qualified independent auditor" means an auditor who is currently licensed by
33 the Texas Board of Public Accountancy and has been a practicing independent
34 auditor for at least five (5) years prior to appointment to the Applicant Review
35 Panel.
36
37 (5) "Substantial Neglect of Duty" means that an individual has disregarded a
38 manifest duty, prescribed by this section, intentionally, knowingly, or negligently.
39 Missing half or more of the meetings in a three (3) month period constitutes a
40 substantial neglect of duty.
41 (6) "Spouse" means one's licensed marriage spouse, common law spouse, or
42 recognized domestic partner.

1
2 (7) "Controlling Person" means an officer, director, manager, principal, or
3 shareholder or member owning at least 10% ownership of a legal entity.
4

5 (B) In 2013 and thereafter in each year following the year in which the national census is
6 taken under the direction of Congress at the beginning of each decade, the Commission
7 shall adjust the boundary lines of the ten (10) single-member districts in conformance
8 with the standards and process set forth in this Article. The Commission shall be fully
9 established no later than July 1, 2013, and thereafter no later than March 1 in each year
10 ending in the number one (1) thereafter. The Commission shall not draw district lines at
11 any other time, except if the districts must be redrawn because of a judicial decision
12 invalidating the then existing district plan, in whole or in part, or the date of the city
13 election is moved. If the date of the city election is moved, then the dates in this article
14 shall be adjusted to ensure the commission has sufficient time to draw the lines prior to
15 the election date.
16

17 (C) The commission shall:

18 (1) conduct an open and transparent process enabling full public consideration of
19 and comment on the drawing of district lines;
20

21 (2) draw district lines according to the redistricting criteria specified in this Article;
22 and
23

24 (3) conduct themselves with integrity and fairness. This selection process is
25 designed to produce a commission that is independent from influence by the city
26 council of the City of Austin and is reasonably representative of this City's
27 diversity.
28

29 (D) The commission shall consist of 14 members.
30

31 (1) Each commission member shall be a voter who has been continuously
32 registered in the City of Austin for five (5) or more years immediately preceding
33 the date of his or her appointment. Each commission member, except the student
34 member described below, shall have voted in at least three (3) of the last five (5)
35 City of Austin general elections immediately preceding his or her application. One
36 commission member shall be a student duly enrolled in a community college or
37 university in the City of Austin and who resides and is registered to vote in the
38 City of Austin.
39
40

1 (2) The term of office of each member of the commission expires upon the
2 appointment of the first member of the succeeding commission in the year
3 following the year in which the national census is taken.
4

5 (3) Nine (9) members of the commission shall constitute a quorum. Nine (9) or
6 more affirmative votes shall be required for any official action, including approval
7 of a final plan establishing the boundaries of any council district.
8

9 (4) Each commission member shall apply this article in a manner that is impartial
10 and that reinforces public confidence in the integrity of the redistricting process. A
11 commission member shall be ineligible, for a period of 10 (ten) years beginning
12 from the date of appointment, to hold elective public office for the City of Austin.
13 A member of the commission shall be ineligible, for a period of three (3) years
14 beginning from the date of appointment, to hold appointive public office for the
15 City of Austin, to serve as paid staff for or as a paid consultant to the City of
16 Austin, the city council of the City of Austin or any member of the city council of
17 the City of Austin, or to receive a non-competitively bid contract with the City of
18 Austin. This three (3) year ban on having a paid consultancy or entering non-
19 competitively bid contracts applies to the member individually and all entities for
20 which the member is a controlling person.
21

22 (E) The commission shall establish the boundaries of the council districts for the City of
23 Austin in a plan using the following criteria as set forth in the following order of priority:
24

25 (1) Districts shall comply with the United States Constitution. Each council district
26 shall have reasonably equal population with other districts, except where deviation
27 is required to comply with the federal Voting Rights Act or allowable by law.
28

29 (2) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971
30 and following) and any other requirement of federal or state law.
31

32 (3) Districts shall be geographically contiguous.
33

34 (4) The geographic integrity of any local neighborhood, or local community of
35 interest shall be respected in a manner that minimizes their division to the extent
36 possible without violating the requirements of any of the preceding subsections. A
37 community of interest is a contiguous population that shares common social and
38 economic interests that should be included within a single district for purposes of
39 its effective and fair representation. Communities of interest shall not include
40 relationships with political parties, incumbents, or political candidates.
41

1 (5) To the extent practicable, district boundaries shall be drawn to encourage
2 geographical compactness such that nearby areas of population are not bypassed
3 for more distant populations.

4
5 (6) To the extent practicable, district boundaries shall be drawn using the
6 boundaries of existing election precincts.

7
8 (7) To the extent practicable, district boundaries shall be drawn using
9 geographically identifiable boundaries.

10
11 (F) The place of residence of any incumbent or potential political candidate shall not be
12 considered in the creation of a plan or any district. Districts shall not be drawn for the
13 purpose of favoring or discriminating against any incumbent, political candidate, or
14 political group.

15
16 (G) By December 1, 2013, and by November 1 in each year ending in the number one (1)
17 thereafter, the commission shall adopt a final plan for the City of Austin specifically
18 describing the district boundaries for each of the council districts prescribed above. Upon
19 adoption, the commission shall certify the plan to the city council of the City of Austin.
20 The city council may not change the plan. The plan shall have the force and effect of law.

21
22 (1) The commission shall issue a report that explains the basis on which the
23 commission made its decisions in achieving compliance with the criteria listed
24 above and shall include definitions of the terms and standards used in drawing the
25 final plan.

26
27 (2) If the commission does not adopt a final plan by the dates in this section, the
28 city attorney for the City of Austin shall immediately petition state court for an
29 order prescribing the boundary lines of the single-member districts in accordance
30 with the redistricting criteria and requirements set forth in this Section. The plan
31 prescribed by the court shall be used for all subsequent city council elections until
32 a final plan is adopted by the commission to replace it.

33
34 (H) The commission has the sole legal standing to defend any action regarding a certified
35 final map, and shall inform the city council of the City of Austin if it determines that
36 funds or other resources provided for the operation of the commission are not adequate.
37 The city council of the City of Austin shall provide adequate funding to defend any
38 action regarding a certified map. The commission has sole authority to determine whether
39 the city attorney or other legal counsel retained by the commission at its discretion shall
40 represent the commission in defense of a certified final map.

41
42 (I) Commission Selection Process.

1
2 (1) No later than December 1, 2012, and by June 1 in each year ending in the
3 number zero (0) thereafter, the City of Austin Auditor shall initiate and widely
4 publicize an application process, open to all registered City of Austin voters who
5 meet the requirements of subsection 3(D)(1) above, in a manner that promotes a
6 large, diverse (by race, ethnicity, gender, and geographic) and qualified
7 Commissioner applicant pool. The City Auditor shall take all reasonable and
8 necessary steps to ensure that the pool has the requisite numbers, diversity, and
9 qualifications. This process shall remain open until February 1, 2013 or until
10 September 30 in each year ending in the number zero (0) thereafter.
11

12 (2) No later than December 1, 2012 and by June 1 in each year ending in the
13 number zero (0) thereafter, the City of Austin Auditor shall initiate and widely
14 publicize an application process, open to all qualified independent auditors that
15 reside in the City of Austin and who meet the requirements of subsection 3(A)(4)
16 above, in a manner that promotes a large pool of applicants and applicant diversity
17 by race, ethnicity, gender, and geography. This process shall remain open until
18 February 1, 2013, or until September 1 in each year ending in the number zero (0)
19 thereafter.
20

21 (3) The City of Austin Auditor shall remove from the commissioner or
22 independent auditor applicant pool any person with conflicts of interest including:
23

24 (A) Within the 5 years immediately preceding the date of application, either the applicant
25 or their spouse, shall have done any of the following:
26

27 (i) Been appointed to, elected to, or have been a candidate for state or city
28 office.
29

30 (ii) Served as an officer, employee, or paid consultant of a political party or
31 of the campaign committee of a candidate for elective state, county or city
32 office.
33

34 (iii) Been a registered state or local lobbyist.
35

36 (iv) Contributed or bundled one thousand dollars (\$1,000) or more in
37 aggregate to candidates for City of Austin elective office in the last City
38 election.
39

40 (B) A person who has been, within the three (3) years immediately preceding the date of
41 application: a paid employee of the City of Austin; person performing paid services under
42 a professional or political contract to the City of Austin, to the city council of the City of

1 Austin, or to any member of the city council of the City of Austin; any Controlling
2 Person of any such consultant; or a spouse of any of the foregoing.

3
4 (4) No later than February 15, 2013, and no later than October 1 in each year
5 ending in the number zero (0), the City of Austin Auditor shall review the auditor
6 review panel applicants and remove those who do not meet the prescribed
7 qualifications in subsection 3(a)(4) or have conflicts of interest as defined by
8 subsection 3(I)(3). No later than February 15, 2013, and no later than October 1 in
9 each year ending in the number zero (0), the City of Austin Auditor shall at a
10 public meeting randomly draw the names of three (3) qualified independent
11 auditors from a pool consisting of all qualified independent auditors, without
12 conflicts of interest, that have applied to serve on the Applicant Review Panel.
13 After the drawing, the City Auditor shall notify the three (3) qualified independent
14 auditors whose names have been drawn that they have been selected to serve on
15 the panel. If any of the three (3) qualified independent auditors declines to serve on
16 the panel or is disqualified because of any conflict of interest prescribed above in
17 subsection 3(I)(2), the City of Austin Auditor shall resume the random drawing at
18 a public meeting as soon as possible until three (3) qualified independent auditors
19 who meet the requirements of this section have agreed to serve on the panel.
20

21 (5) No later than March 1, 2013, and no later than October 31 in each year ending
22 in the number zero (0) thereafter, the City of Austin Auditor shall have reviewed
23 and removed individuals with conflicts of interest as defined in subsection 3(I)(3),
24 or fail to meet the qualification prescribed in subsection 3(D)(1), from among the
25 commission applicants, and then shall publicize the names in the applicant pool
26 and provide copies of their applications to the Applicant Review Panel.
27

28 (6) No later than May 1, 2013, and by January 15 in each year ending in the
29 number one (1) thereafter, the Applicant Review Panel shall select a pool of sixty
30 (60) applicants from among the qualified applicants. These persons shall be the
31 most qualified applicants on the basis of relevant analytical skills, ability to be
32 impartial, residency in various parts of the City, and appreciation for the City of
33 Austin's diverse demographics and geography. The members of the Applicant
34 Review Panel shall not communicate directly or indirectly with any elected
35 member of the Austin City Council, or their representatives, about any matter
36 related to the nomination process or any applicant prior to the presentation by the
37 panel of the pool of recommended applicants to the council of the City of Austin.
38

39 (7) No later than May 2, 2013, and by January 16 in each year ending in the
40 number one (1) thereafter, the Applicant Review Panel shall submit its pool of
41 sixty (60) recommended applicants to the council of the City of Austin. Each
42 member of the council of the City of Austin within five (5) days in writing may

1 strike up to one (1) applicant from the pool of applicants. No reason need be given
2 for a strike. Any applicant struck by any member of the council of the City of
3 Austin must be removed from the pool of applicants. No later than May 8, 2013,
4 and by January 22 in each year ending in one (1) thereafter, the Applicant Review
5 Panel shall submit the pool of remaining applicants to the City of Austin Auditor.
6

7 (8) No later than May 9, 2013 and by January 23 in each year ending in the number
8 one (1) thereafter, the City of Austin Auditor shall randomly draw at a public
9 meeting eight (8) names from the remaining pool of applicants. These eight (8)
10 individuals shall serve on the Citizens Redistricting Commission.
11

12 (9) No later than June 30, 2013, and by February 28 in each year ending in the
13 number one (1) thereafter, the eight (8) commissioners shall review the remaining
14 names in the pool of applicants and, from the remaining applicants in that pool,
15 shall appoint six (6) applicants to the commission. These six (6) appointees must
16 be approved by at least five (5) affirmative votes among the eight (8)
17 commissioners. These six (6) appointees shall be chosen to ensure that the
18 commission reflects the diversity of the City of Austin, including, but not limited
19 to, racial, ethnic, and gender diversity. However, it is not intended that formulas or
20 specific ratios be applied for this purpose. Applicants shall also be chosen based on
21 relevant analytical skills and ability to be impartial. As for geographic diversity,
22 for the first redistricting in 2013, the eight (8) commissioners shall appoint the
23 remaining six (6) members to ensure geographic diversity and that at least three (3)
24 commissioners come from each of the four (4) existing Travis County
25 Commissioners districts, to the extent feasible with the remaining six (6) open
26 seats. As for the redistricting in each year ending in the number one (1) thereafter,
27 the eight (8) commissioners shall ensure that at least one (1) commission member
28 resides in each of the then current council districts, to the extent feasible with the
29 remaining six (6) open seats.
30

31 (10) Once constituted, the commission shall conduct hearings and adopt a plan for
32 the boundaries of the city's council districts as required by the charter of the City
33 of Austin.
34

35 **(J) Citizens Redistricting Commission Vacancy, Removal, Resignation, or Absence.**
36

37 (1) In the event of substantial neglect of duty, gross misconduct in office, or
38 inability to discharge the duties of office, a member of the commission, having
39 been served written notice and provided with an opportunity for a response, may
40 be removed by a vote of ten (10) of the Commissioners.
41

1 (2) Any vacancy, whether created by removal, resignation, or absence, in the
2 fourteen (14) commission positions shall be filled by the Commission within
3 fifteen (15) days after the vacancy occurs, from the remaining pool of applicants
4 and in compliance with the applicant requirements of subsection 3(I)(8). Nine (9)
5 members must agree to any appointment.
6

7 (K) The activities of the Citizens Redistricting Commission are subject to all of the
8 following:
9

10 (1) The commission shall comply with all state and city requirements for open
11 meetings.

12 (2) The records of the commission and all data considered by the commission are
13 public records that will be made available in a manner that ensures immediate and
14 widespread public access.
15

16 (3) Commission members and commission staff may not communicate with or
17 receive communications about redistricting matters from anyone outside of a
18 public hearing. This paragraph does not prohibit communication between
19 commission members, commission staff (which shall exclude staff of any council
20 members), legal counsel, and consultants retained by the commission that is
21 otherwise permitted by state and city open meeting requirements.
22

23 (4) The commission shall select one of its members to serve as the chair and one to
24 serve as vice chair. The chair and vice chair shall remain voting members of the
25 commission.
26

27 (5) The commission shall hire commission staff, legal counsel, and consultants as
28 needed; provided, however, that compensation of such persons shall be limited to
29 the period in which the commission is active. The commission shall establish clear
30 criteria for the hiring and removal of these individuals, communication protocols,
31 and a code of conduct. The commission shall apply the conflicts of interest listed in
32 subsection 3(I)(3) to the hiring of staff, legal counsel, and consultants. The
33 commission shall require that at least one of the legal counsel hired by the
34 commission has demonstrated extensive experience and expertise in
35 implementation and enforcement of the federal Voting Rights Act of 1965 (42
36 U.S.C. Sec. 1971 and following). The commission shall make hiring, removal, or
37 contracting decisions on staff, legal counsel, and consultants by nine or more
38 affirmative votes.
39

40 (6) Notwithstanding any other provision of law, no employer shall discharge,
41 threaten to discharge, intimidate, coerce, or retaliate against any employee by

1 reason of such employee's membership on the commission or attendance or
2 scheduled attendance at any meeting of the commission.

3
4 (7) The commission shall establish and implement an open hearing process for
5 public input and deliberation that shall be subject to public notice and promoted
6 through an extensive outreach program to solicit broad public participation in the
7 redistricting public review process. The hearing process shall begin with hearings
8 to receive public input before the commission votes and approves a preliminary
9 redistricting plan. In 2013, there shall be at least two (2) such public hearings,
10 before the commission votes on a preliminary plan, in each of the four (4) Travis
11 County Commissioner Precincts, and in each year ending in the number one (1)
12 thereafter, there shall be at least one (1) such public hearing, before the
13 commission votes on a preliminary redistricting plan in each of the then existing
14 ten (10) council districts. In addition, these hearings shall be supplemented with all
15 other appropriate activities to further increase opportunities for the public to
16 observe and participate in the review process.

17
18 Following the commission's vote approving the preliminary plan, there shall be at
19 least four (4) public hearings, geographically dispersed with at least one hearing in
20 each of the four Travis County Commissioners' precincts and hearing shall be held
21 on a different date. The commission also shall display the approved preliminary
22 plan for written public comment in a manner designed to achieve the widest public
23 access reasonably possible. Written public comment shall be taken for at least
24 fourteen (14) days from the date of public display of the approved preliminary
25 plan. The commission then shall vote on a proposed final plan and then it shall
26 hold two subsequent public hearings, one north of Lady Bird Lake and one south
27 of Lady Bird Lake and take at least five (5) days of written public comments. The
28 Commission then shall be finished with all hearings and adopt a final plan by no
29 later than December 1, 2013, and by November 1 in each year ending in the
30 number one (1) thereafter.

31
32 (8) Members of the commission shall not be compensated for their service.
33 Members of the panel and the commission are eligible for reimbursement of
34 reasonable and necessary personal expenses incurred in connection with the duties
35 performed pursuant to this act.

36
37 (9) The council of the City of Austin shall appropriate sufficient funds to meet the
38 operational cost of the commission and the cost of any outreach program to solicit
39 broad public participation in the redistricting process.

40
41 (10) The commission shall remain inactive except when necessary to comply with
42 its duties under this ordinance and the charter of the City of Austin.

1
2 4. TRANSITION.
3

4 (A) This section provides for a transition from the seven (7)-member council elected at
5 large to the eleven (11)-member council provided by this article. Except as provided in
6 this section, and after the transition as prescribed in this section, the mayor and council
7 members shall serve three (3)-year terms.
8

9 (B) The three (3) council members elected at large in May 2011 shall serve three (3)-year
10 terms. The mayor and three (3) council members elected at-large in the May 2012 general
11 election shall serve two (2)-year terms.
12

13 (C) A general election shall be held for the council in May 2014, at which the mayor and
14 the ten (10) council members elected from council districts shall be elected.
15

16 (D) As soon as practicable after assuming office after the May 2014 general election, the
17 City Clerk shall divide at a public hearing the council members elected from council
18 districts into two (2) classes by drawing lots. Class One shall consist of five (5) council
19 members who shall serve initial two (2)-year terms. Class Two shall consist of five (5)
20 council members who shall serve three (3)-year terms.
21

22 (E) At the May 2016 general election, the five (5) Class One council members elected by
23 districts will be elected for three (3)-year terms.
24

25 (F) At the May 2017 general election, the Mayor and five (5) Class Two council
26 members elected by districts will be elected for three (3) year terms, marking the end of
27 the transition period.
28

29 **PART 4.** This ordinance takes effect on -----, 2012.

30 **PASSED AND APPROVED**
31

32 §
33 §
34 _____, 2012 § _____
35 Lee Leffingwell
36 Mayor
37

38
39 **APPROVED:** _____
40 Karen M. Kennard
41 City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk

Draft